a depositor opens an account in trust for a third party without notifying the beneficiary and dies having the book in his possession, and leaving the account unexplained, a trust arises in favor of the third party. Where no real trust is intended, and the depositor simply uses another's name for purposes of his own, his intent may always be shown, and will be controlling. See Ames's Cases on Trusts, Ch. I. § 13.

WILLS — DESTRUCTION OF SUBSEQUENT INSTRUMENT. — A statute declared that "no will nor any part thereof shall be revoked except . . . by some other will or codicil in writing" duly executed. Testator destroyed a second will, which did not contain an express clause revoking his first. *Held*, first will was valid. *Cheever* v. *North*, 64 N. W. Rep. 455 (Mich.).

The court says the statute merely declared the common law rule, and that the former will was not revoked by the subsequent one by that rule. It also says the destruction of the second instrument revives the first will. Revival is making good something hitherto void. But the court had declared that the first will never was void. So the doctrine of revival is hardly applicable, but the decision that the first will had never been revoked was sufficient to dispose of the case. At common law a subsequent will did not revoke a previous one, *Hutchins* v. *Bassett*, 2 Salk. 592, even if the subsequent one contained the words, "this is my last will." *Lemage* v. *Goodfan*, L. R. 1 P. & D. 57. The case of *Peck's Appeal*, 50 Conn. 562, is in accord with the principal case under a similar statute, and cites various authorities.

WILLS — ISSUE LIVING — CHILD EN VENTRE SA MÈRE. — *Held*, that a child *en ventre sa mère* is to be deemed living not only for his own benefit, but also for that of others. *In re Burrows*, [1895] 2 Ch. 497. See NOTES.

REVIEWS.

THE HISTORY OF ENGLISH LAW BEFORE THE TIME OF EDWARD I. By Sir Frederick Pollock, Bart., M.A., LL.D., Corpus Professor of Jurisprudence in the University of Oxford, and Frederic William Maitland, LL.D., Downing Professor of the Laws of England in the University of Cambridge. Cambridge: At the University Press, 1895. 2 vols. 8vo, pp. xxxviii, 678, and xiii, 684.

Here, truly, one finds "the gladsome light of jurisprudence"! It is good to have lived to see the day when such a book can be printed, a book in which technical learning is presented accurately and exactly, and yet in a manner so engaging. The literary gift which has shaped these volumes is remarkable; but the combination of this quality with a strong intellectual grasp and easy mastery of all the recondite learning which finds expression here is far more remarkable. This is not only a learned and valuable book, but a delightful one.

The space allowable in these columns does not permit any review of the work at all worthy of its merits. Let us, however, make sure that the scope of the work is understood.

In a short Introduction the authors point out that they are not undertaking any philosophical discussion of the nature of law. Law they conceive of as "the sum of the rules administered by courts of justice." They declare that the law prevailing in England before the Norman invasion "was, in the main, pure Germanic law," not Celtic or Roman. Of that period of the early law they are to speak very briefly. They are to stop at the reign of Edward I., because the period since that date is intimately linked in with our modern law; "the law of the later middle ages . . . has never passed utterly outside the cognizance of our courts and our practising lawyers." Constitutional history and law, and ecclesiastical matters they are to leave one side. "We have thought less," they say "of symmetry than of the advancement of knowledge. The time for

an artistically balanced picture of English mediæval law will come; it has not come yet."

As regards this limitation to the period of Edward I., we may accept the reasons for ending the present book at that point without excusing our authors from carrying on the work thus admirably begun. They must not stop here forever.

The body of the History is in two Books, the first of which, in six chapters and about two hundred pages, gives "a sketch of early English history, "including brief accounts of Anglo-Saxon and Norman law, of England under the Norman Kings, of Roman and Canon law, of the age of Glanvill and the age of Bracton. And then, at the end of this Book, the authors intimate what is to come by saying that "now having brought down our general sketch of the growth of English law to the accession of Edward I., 'the English Justinian,' we may turn to an examination of its rules and doctrines as we find them in the age of Glanvill and the age of Bracton."

The second Book, which begins at page 207 of the first volume, then comes back and takes up the body of English law for more particular scrutiny. The scheme of this part of the work, under the general title of "The Doctrines of English Law in the Early Middle Ages," will be best stated in the authors' words: "As regards the law of the feudal time we can hardly do wrong in turning to the law of land tenure as being its most elementary part. We shall begin therefore by speaking of land tenure, but in the first instance we shall have regard to what we may call its public side; its private side we may for a while postpone, though we must not forget that this distinction between the two sides of property law is one that we make for our own convenience, not one that is imposed upon us by our authorities. From land tenure we shall pass to consider the law of personal condition. The transition will be an easy one, for the broadest distinction between classes of men that will come before us, the distinction between free men and men who are not free, is intricately connected with land tenure, in so much that the same word *villenagium* is currently used to denote both a personal status and a mode of tenure. Then we shall turn to the law of jurisdiction, for this again we shall find to be intertwined with the land law; and along with the law of jurisdiction we must examine the 'communities of the land.' Having dealt with these topics, we shall, it is hoped, have said enough of political structure and public affairs, for those matters which are adequately discussed by historians of our constitution we shall avoid. Turning then to the more private branches of our law, we shall take as our chief rubrics 'Ownership and Possession,' 'Contract,' 'Inheritance,' and 'Family Law,' while our last two chapters will be devoted, the one to 'Crime and Tort,' the other to 'Procedure.' We are well aware that this arrangement may look grotesque to modern eyes; since, for example, it thrusts the law of persons into the middle of the law of property. Our defence must be, that after many experiments we have planned this itinerary as that which will demand of us the least amount of repetition and anticipation, and therefore enable us to say most in the fewest words. We shall speak for the more part of the law as it stood in the period that lies between 1154 and 1272. This will not prevent us from making occasional excursions into earlier or later times when to do so seems advisable, nor from looking now and again at foreign countries; but with the age of Glanvill and the age of Bracton we shall be primarily concerned.

Again, we shall be primarily concerned with the evolution of legal doctrines, but shall try to illustrate by real examples some of the political and economic causes and effects of those rules that are under our examination."

As to the manner in which all this well planned work is done, we would gladly illustrate it by quotations, but there is no more room for that. One remarks everywhere a mastery of the subject, a knowledge of the sources, a temperate judgment in using them, and an unrivalled skill and felicity in exposition and statement. For a good specimen of all these qualities let us commend the reader to the pages, at the beginning of Chapter IX. in the second volume, which deal with the Forms of Action. Never was learned legal discourse so delightfully or more profitably carried on. Always the style is that of a master; for, with all its subtle stimulus of pleasure, it is a mere handmaid to the thought.

We are glad to hear that the book is having a wide sale in this country.

J. B. T.

HANDBOOK OF THE LAW OF TORTS. By Edwin A. Jaggard. St. Paul: West Publishing Co. 1895. (Hornbook Series.) 2 vols. 8vo, pp. xvi, v, and 1307.

The merits of this work are very considerable, and far outweigh its defects. The author leaves the impression of a very able lawyer, who has personally investigated the authorities with great care and judgment, but who has put his book together in haste, and who has been hampered by a defect in the plan adopted by the publishers. Hence there is, to a certain extent, a lack of proportion; in some cases, over-fulness for an elementary work; in other cases, a want of definiteness, and occasional passages which are liable to be misinterpreted. The prospectus of "The Hornbook Series" names as one of its features, notes "containing a copious citation of authorities." This seems a mistake in a work intended largely for students. It would be better to follow, in this regard, those model books, Anson on Contracts and Pollock on Torts, wherein the learned authors merely cite cases enough to illustrate the text, without any attempt to make an exhaustive collection of authorities. No doubt an American author labors under especial difficulties in compressing his citations within narrow limits; inasmuch as "the American law" (to use the words of Professor Huffcut) "is the law of upwards of fifty jurisdictions, while the English law is the law of but one." Still the American writer can take Anson and Pollock for his standard, and follow their example as far as the changed circumstances will permit. A copious citation of cases is likely to react, as it were, upon the text, and is almost sure to mar "the simplicity and conciseness of the author's treatment." To put the criticism in the form of a paradox, it is, in a certain sense, true, that the success of an elementary law book depends on what is left out.

But, after making all deductions for defect of plan and rapidity of execution, the book is a good one. The writer has ideas of his own, and is also familiar with the best ideas of other people, notably the recent English authors who have done so much to elucidate the law of torts, and who are as yet so little known on this side of the Atlantic. Undoubtedly, Sir Frederick Pollock's book, which Professor Jaggard justly places at the head, has been largely used in the United States; but it is probable that comparatively few American lawyers have even heard the names of Clerk and Lindsell, Pigott or Innes. Professor Jaggard has